

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
ELKINS**

**CHARLES M. MOODY,**

Plaintiff,

v.

**CIVIL ACTION NO. 2:11-CV-26  
(BAILEY)**

**CLINICAL DIRECTOR ELLEN MACE  
LEIBSON, et. al.,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel. By Local Rule, this action was referred to Magistrate Judge Joel for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Joel filed his R&R on March 30, 2012 [Doc. 51]. In that filing, the magistrate judge recommended that this Court **GRANT** defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment [Doc. 42] and **DISMISS WITH PREJUDICE** plaintiff's Complaint [Doc. 1] [Doc. 51 at 13].

Pursuant to 28 U.S.C. § 636 (b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*


review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Joel's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b). Although the signed return receipt does not contain a date, it was returned to the Court and docketed by April 6, 2012 [Doc. 52]. As such, even with a liberal interpretation of the date of receipt as April 6, 2012, the deadline for objections has passed, and to date, no objections have been filed.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's Report and Recommendation [Doc. 51] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **GRANTS** the defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Doc. 42] and **DISMISSES with prejudice** the plaintiff's Complaint [Doc. 1]. Therefore, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court. The Clerk is directed to enter a separate judgment in favor of the defendants.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

**DATED:** April 30, 2012.

  
JOHN PRESTON BAILEY  
CHIEF UNITED STATES DISTRICT JUDGE